

**ANNUAL REPORT
to the Commissioner
Department of Environmental Protection
July 1, 1997 -- June 30, 1998
FY 98**

I. Introduction

The Board of Underground Storage Tank Installers was established in 1985 by 32 MRSA Chapter 104-A and its authorities expanded and modified by subsequent amendments in 1987, 1989, 1990, 1992, and 1997. According to the statute, the purpose of the Board is as follows:

"In order to safeguard the public health, safety and welfare, to protect the public from incompetent and unauthorized persons, to assure the highest degree of professional conduct on the part of underground oil storage tank installers and to assure the availability of underground oil storage tank installations of high quality to persons in need of those services, it is the purpose of this chapter to provide for the regulation of persons offering underground oil storage tank installation services."

Thus, the Board has three major responsibilities: (1) certifying underground oil tank installers and underground gasoline tank removers, (2) managing and accrediting continuing education for certified underground tank installers and removers, and (3) taking disciplinary actions against installers and removers who violate its enabling statutes and rules. By law, the Board is also charged with submitting an annual report to the Commissioner of the Department of Environmental Protection (32 MRSA §10004(6)). This report is designed to fulfill that mandate for FY 97/98. It covers the following major subject areas:

- Membership and Staffing;
- New Certifications and Testing;
- Recertification and Continuing Education;
- Processing of Complaints;
- Rulemaking and Program Development;
- Newsletter;
- Data Management; and
- Financial Statement

II. Membership and Staffing

Members of the Board are as follows:

- Wayne Gifford, chair (Maine Oil Dealers' Association) - Term expires 12/31/2000
- Allan Ball (DEP) - Term expires 12/31/1999.
- William Carver (certified installer) - Term expires 12/31/1998.
- Robert Judkins (Maine Oil and Solid Fuel Board) - Term expires 12/31/1999

- Roger Lewis (Public Member) - Term expires 12/31/1998.
- Raymond Poulin (Maine Fire Chief Association) - Term expires 12/31/1999.
- Joseph (Bruce) Probert (Me. Chamber of Commerce) - Term expires 12/31/1998.

Membership in the Board remained constant this past year as Mr. Gifford was reappointed to a second term. We understand Mr. Judkins has left the Oil and Solid Fuel Board and thus will be leaving this Board as soon as a replacement is found. James Hynson and Theresa Scott continued to provide staffing to the Board. Additional sporadic support was provided by staff from the Department of Environmental Protection, including W. David McCaskill, Diana McLaughlin, Beth DeHaas, Harold Evans, Denise Fournier, Mark Holden and Ted Scharf. Support from the Office of the Attorney General was provided by Dennis Harnish.

III. New Certifications and Testing

This section includes discussions on (A) number of installers certified, (B) written exams, (C) on-site exams, (D) upgrades, and (E) apprenticeships.

A. Number of Installers Certified

The number of certified installers is 145 compared to 159 that were certified at the end of FY 96/97. At present, this includes 142 who hold Class 2 Oil Tank Installer Certificates, and three (3) Class 3 Oil Tank Installers. During the year, three (3) new installers became certified. Sixteen (16) elected not to apply for recertification once their old certificates expired. One could not meet continuing education requirements, in spite of being granted an additional six (6) month probationary certificate during the course of an enforcement action. While the number of installers who elected not to apply for recertification is higher than in the past, it is less than expected given that the deadline for underground tank removal or replacement occurred last year in Maine.

There are three (3) underground gasoline tank removers in Maine, two of whom were certified in FY 94/95 and recertified last year. The third was certified last year.

The Board's authority to certify underground hazardous substance tank installers was repealed last year by the Legislature because there was no interest in the program. There are no certified underground hazardous substance tank installers.

B. Written Exams

Considerable effort was spent in FY 97/98 updating written exams, based on a number of revisions to some of the documents we use for study materials, including fire codes, DEP underground tank regulations, American Petroleum Institute recommended practices, and Steel Tank Institute installation instructions. While this effort was completed, we anticipate significant additional work to continue into FY 98/99 since the Petroleum Equipment Institute recently revised its recommended practices. Several equipment manufacturers also revised their installation instructions which are used in the examination.

We offered two (2) written examinations during FY 97/98: December 11, 1997 and April 15, 1998. In all cases, the Board offered the initial oil tank installer examination, the final examinations for Classes 2 and 3 underground oil tank installer certification, and the underground gasoline tank remover examination. Results of those examinations are provided in Table 1. A total of four (4) applicants (one of which took the exam twice) took the exams, all of whom took the Class 2 final exam. Three (3) passed while one (1) failed on two occasions.

	11-Dec	15-Apr	Total
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Exam	Pass	Fail	Total	Pass	Fail	Total	Pass	Fail	Total
Initial Oil Tank Installer	0	0	0	0	0	0	0	0	0
Class 2 Final	3	1	4	0	1	1	3	2	5
Class 3 Final	0	0	0	0	0	0	0	0	0
Gasoline Tank Remover	0	0	0	0	0	0	1	0	0
Total	3	1	4	0	1	1	3	2	5

Table 1. Results of written examinations given by the Board of Underground Storage Tank Installers FY 97/98.

C. On-Site Exams

The 1990 amendments to the Board's enabling legislation and rules eliminated the need to conduct on-site examinations for applicants for oil tank installer certificates. While on-site exams remain required for underground gasoline tank removers, no applicants for underground gasoline tank remover certificates took the written examination in FY 97/98, and thus none were eligible for the on-site examination.

D. Upgrades

No Class 3 Underground Tank Installers completed apprenticeship requirements and passed the final examination to be upgraded to Class 2 Underground Tank Installers in FY 97/98.

E. Apprenticeships

By virtue of passing the initial oil tank installer examination, no applicants qualified as oil tank installer apprentices this year. Seventy-eight had qualified in previous years. Four (4) of those were eligible to take the final exam last year. Three passed the final exam, while one failed on two occasions. Six (6) apprentices elected to renew their apprentice certificates or have certificates which are current. With the passing of Maine's deadline for tank replacement, the requirement for six (6) apprentice installations is expected to become considerably more difficult since the availability of new installation work will probably decline appreciably.

F. Variances

The 1990 amendments to the Board's enabling legislation instituted a variance process for individuals to obtain variances for the apprenticeship portion of the certification process (32 MRSA §10010.3-A.D; 06-481 CMR c. 3 §4.D). During FY 96/97, the Board received no formal applications for variances.

IV. Recertification and Continuing Education

One hundred ten (110) installers were granted renewal certificates (including two (2) whose renewals were pending at the end of last year), while sixteen (16) did not reapply. Five (5) individuals applied but had not met the Board's continuing education requirement, and thus disciplinary action is in progress. One (1) was not able to meet continuing education requirements in spite of being granted a probationary period in which to do so.

Continuing education programs accredited by the Board in FY 97/98 generally applicable to all installers are listed in Table 2. These programs received credit by application by program sponsors, and thus all installers who attended them received credit. In addition, five (5) requests were received from individual installers for credit on continuing education programs that had not been accredited through the program sponsors. The Board granted a total of sixteen (16) hours credit from these requests. The Board

continues to welcome requests for accreditation of continuing education opportunities from program sponsors as well as from certified installers and removers.

PROGRAM	SPONSOR	Approval Date	HOURS
8-Hour OSHA 29 CFR 1910.120(e) Training	Southern Me Tech J.Vacchiano, (Personal Request)	June 20, 1997	2
40-Hour Hazardous Waste (Renewal)	Burgess & Associates	July 11, 1997	8
8-Hour Hazardous Waste (Renewal)	Burgess & Associates	July 11, 1997	2
Corrosion & Cathodic Prot.	Maine Oil Dealers Association	September 19, 1997	4
Veeder-Root UST Monitoring Systems	Veeder-Root, David Blanchette (Personal Request)	September 19, 1997	2
8-Hr. Hazardous Waste Refresher	Pine State Health & Safety	October 17, 1997	2
8-Hr. Hazardous Waste Refresher	Pine State Health, John Bishop (Personal Request)	October 17, 1997	2
Annual Inspections/Piping & Sumps	Maine Oil Dealers Association	January 23, 1998	4
40-Hour Hazardous Waste (Renewal)	Safety Communications	January 23, 1998	8
8-Hour Hazardous Waste (Renewal)	Safety Communications	January 23, 1998	2
8-Hour Hazardous Waste Supervisor (Renewal)	Safety Communications	January 23, 1998	2
Environmental Sampling Procedures (Renewal)	Safety Communications	January 23, 1998	1
OHSA 40 Hr. Basic Health & Safety (Renewal)	Field Services, Inc.	January 23, 1998	8
8-Hour Health & Safety (Renewal)	Field Services, Inc.	January 23, 1998	2
Maine DEP/Air/Oil Bureau Cross Training	DEP/Marcel Moreau	January 23, 1998	2
How to Install Tanks & Piping II, Closure	Phil Pimentel (Personal Request)	April 17, 1998	8
40-Hour OSHA Safety (Renewal)	SafeTech, Deborah Roy	May 15, 1998	8
8-Hour OSHA Refresher (Renewal)	SafeTech, Deborah Roy	May 15, 1998	2
Total			69

Table 2. Continuing education opportunities accredited by the Board of Underground Storage Tank Installers FY 97/98.

V. Processing of Complaints

Disciplinary actions involving twenty (20) investigations and thirty-seven (37) alleged violations were processed and resolved in FY 97/98, including four (4) investigations held over from 1996/97. A summary of the Board's actions in these matters is presented in Appendix A.

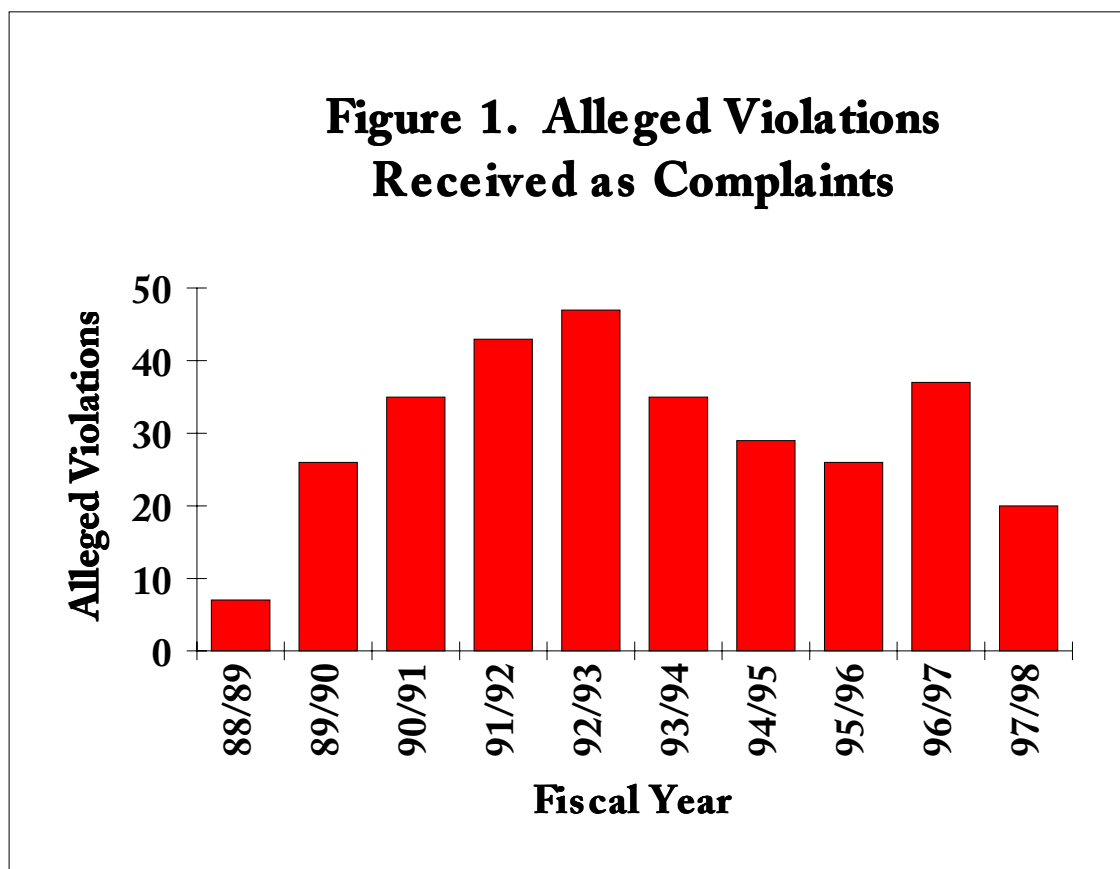
Eighteen (18) complaints involving twenty (20) alleged violations were received in FY 97/98. Investigations which remain unresolved at the end of the year are listed in Table 3.

Principle Violation	Year	No.	Date Received	Date Sum.	Action Date	Board Action
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06-096CMR691.4.M	1998	10	3/2/98	4/8/98	5/15/98	Hearing
06-096CMR691App.J.2	1998	11	4/21/98	5/5/98	5/15/98	Consent Agreement Offer
38MRSA543	1998	11	4/21/98	5/5/98	5/15/98	Consent Agreement Offer
38MRSA565.1.A	1998	12	5/14/98			
06-481CMR1.4.B(1)	1998	13	6/1/98			
06-481CMR1.4.B(1)	1998	14	6/1/98			
06-481CMR1.4.B(1)	1998	15	6/1/98			
06-481CMR1.4.B(1)	1998	16	6/1/98			
06-481CMR1.4.B(1)	1998	17	6/5/98			
Local fire code	1998	18	6/23/98			

Table 3. Maine Board of Underground Storage Tank Installers ongoing enforcement actions as of June 30, 1998.

Figure 1 shows the number of alleged violations investigated by the Board and its staff since promulgation of the Board's rules in August, 1988. This graph indicates a declining trend in alleged violations.



VI. Rulemaking and Program Development

In FY 97/98, we completed rulemaking to repeal the certification program for underground hazardous substance tank installer, corrected substantive typographical errors in the rules, and updated the rules to reflect the current organizational nomenclature of the Department of Environmental Protection. We will still need to amend the rules for certifying underground gasoline tank removers to make them consistent with last year's legislation allowing on-site examinations to be conducted on fuel oil tanks.

VII. Newsletter

One of the initial benefits of certification of installers was the development of an ability by the State to communicate with installers via a newsletter. Two issues of "The Maine Installer" were published during FY 97/98. Unfortunately, it has been impractical to keep to our original hope of a quarterly newsletter due to conflicting demands on staff. However, the newsletter appears to be well received whenever it can be published.

VIII. Data Management

We continue to use the databases developed previously in EXCEL for our data management needs. A number of other alternatives are in various stages of development within the Department of Environmental Protection and State of Maine as a whole. We await their availability to our program.

IX. Financial Statement

The Board's financial statement for FY 97/98 is provided in Table 4. For the first year, revenues of the Board have their own budget categories in the State system and thus actual values, as entered by the Agriculture, Conservation, and Environmental Protection (ACE) Service Center are provided.

Income shown for recertification varies widely on a biennial basis. Recertification is required every two (2) years, and thus income for this year reflects the vast majority of tank installers becoming recertified this year. It is therefore expected that this figure will follow two (2) year cycles of being high and low, with this year a high year.

Respectfully Submitted,

Wayne Gifford,
Chairman

Income	
Environmental License Fee	\$ 150.00
Underground Tank Registration Fees	\$ -250.00
DEP Fines	\$ 1,750.00
Exam Fees	\$14,170.00
Subtotal	\$15,820.00
Expenses: Account 014 06A 1520 44x	
Personal Services	\$67,543.88
Fringe	\$23,054.03
Contractual	\$ 248.25
Travel	\$ 746.79
Supplies	0
Other	\$ 5,347.93
Sta-Cap	\$ 1,483.88
Subtotal	\$98,424.76
Grand Total¹	\$-82,604.76

Table 4. Financial statement for the Board of Underground Tank Installers, July 1, 1997 through June 30, 1998.

¹Pursuant to 32 MRSA Sec. 10012.2, all fees and expenses of the Board of Underground Storage Tank Installers are deposited into and paid out of the Ground Water Oil Cleanup Fund. Thus, shortfalls of the Board are made up from other revenue sources from the Fund.

Maine Board of Underground Storage Tank Installers
Summary of FY 97/98 Enforcement Actions (By Violation)

Alleged Violation	Year	No.	Date Received	Action Date	Action	Result	Fine	Days Susp.	Days Probation	Other Penalty	Date Closed
06-096CMR691.4.C	1997	17	6/9/97	7/11/97	CA	CA	\$250				9/19/97
06-096CMR691.5.B.6	1998	2	8/27/97	11/21/97	CA	CA	\$600			Repair	12/19/97
06-096CMR691.6.B.3.a	1997	9	12/16/96	5/9/97	Hearing	Order	\$100				7/11/97
06-096CMR691.6.B.4.h	1998	9	1/15/98	2/20/97	Table	Dismiss					3/20/98
06-096CMR691.6.B.4.i	1998	1	7/8/97	9/19/97	Table	Dismiss				Letter	10/17/97
06-096CMR691.6.B.6.6	1997	9	12/16/96	5/9/97	Hearing	Order	\$100			Repair	7/11/97
06-096CMR691App.D.7	1997	9	12/16/96	5/9/97	Hearing	Order	\$100			Repair	7/11/97
06-096CMR691AppE.1	1998	2	8/27/97	11/21/97	CA	CA				Combine	12/19/97
06-481CMR1.4.A(2)(b)	1997	9	2/21/97	5/9/97	Hearing	Order	\$800				7/11/97
06-481CMR1.4.A(2)(b)	1998	7	11/20/97	12/19/97	CA	CA	\$500				1/23/98
06-481CMR1.4.B(1)	1997	2	8/7/96	8/23/96	CA	CA	\$250		180	Ed	10/18/97
06-481CMR1.4.B(1)	1998	3	9/19/97	9/19/97	CA	CA	\$250		180	Ed	10/17/97
06-481CMR1.4.B(1)	1998	4	9/19/97	9/19/97	CA	CA	\$250		180	Ed	10/17/97
06-481CMR1.4.B(1)	1998	6	9/26/97	11/21/97	CA	CA			60	Ed	12/19/97
06-481CMR1.4.B.3.b.ii	1997	19	6/20/97	6/20/97	CA	CA	\$100				7/11/97

Appendix A